

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JERRY E. SPICER,

Plaintiff,

v.

DR. HENRY RICHARDS,

Defendant.

Case No. C07-5109 FDB/KLS

ORDER LIFTING STAY AND
REVISED PRETRIAL SCHEDULING
ORDER

The Court previously stayed all discovery pending its reviewed of Plaintiff's motion for declaratory relief, and the parties' motions for summary judgment. (Dkt. # 22). By Order dated December 21, 2007, Plaintiff's motion for declaratory relief was denied and Defendant's motion for summary judgment was granted (Dkt. # 27), and the stay on discovery was lifted by operation of law with entry of that Order. To avoid all confusion, the Court issues this Order, advising the parties that the stay has been lifted and the parties may now engage in discovery on the issues remaining in this lawsuit. In addition, new pre-trial deadlines are necessary. Accordingly, it is hereby **ORDERED:**

Discovery

All discovery shall be completed by **July 11, 2008**. Service of responses to interrogatories and to requests to produce, and the taking of depositions shall be completed by this date. Federal

1 Rule of Civil Procedure 33(b)(3) requires answers or objections to be served within **thirty (30)**
2 **days** after service of the interrogatories. The serving party, therefore, must serve his/her
3 interrogatories at least **thirty (30) days** before the deadline in order to allow the other party time to
4 answer.

5 6 Motions

7 Any dispositive motion shall be filed and served on or before **August 15, 2008**. The motion
8 shall include in its caption (immediately below the title of the motion) a designation of the Friday
9 upon which the motion is to be noted upon the court's calendar. That date shall be the fourth Friday
10 following filing of the dispositive motion. All briefs and affidavits in opposition to any motion
11 shall be filed and served not later than 4:30 p.m. on the Monday immediately preceding the Friday
12 appointed for consideration of the motion. If a party fails to file and serve timely opposition to a
13 motion, the court may deem any opposition to be without merit. The party making the motion may
14 file, not later than 4:30 p.m. on the Thursday immediately preceding the Friday designated for
15 consideration of the motion, a response to the opposing party's briefs and affidavits. A duplicate
16 copy of all such papers shall be delivered along with the originals to the Clerk of this court. The
17 originals and copies must indicate in the upper right-hand corner the name of the magistrate judge
18 to whom the copies are to be delivered.

19 If a motion for summary judgment is filed, it is important for the opposing party to note the
20 following:

21 A motion for summary judgment under Rule 56 of the Federal Rules of Civil
22 Procedure will, if granted, end your case.

23 Rule 56 tells you what you must do in order to oppose a motion for summary
24 judgment. Generally, summary judgment must be granted when there is no genuine
25 issue of material fact -- that is, if there is no real dispute about any fact that would
26 affect the result of your case, the party who asked for summary judgment is entitled
27 to judgment as a matter of law, which will end your case. When a party you are
28 suing makes a motion for summary judgment that is properly supported by
declarations (or other sworn testimony), you cannot simply rely on what your
complaint says. Instead, **you must set out specific facts in declarations,
deposition, answers to interrogatories, or authenticated documents, as provided
in Rule 56(e), that contradict the facts shown in the defendant's declarations**

1 **and documents and show that there is a genuine issue of material fact for trial.**
 2 **If you do not submit your own evidence in opposition, summary judgment , if**
 3 **appropriate, may be entered against you. If summary judgment is granted,**
 4 **your case will be dismissed and there will be no trial.**

5 *Rand v. Rowland*, 154 F.3d 952, 962-963 (9th Cir. 1998)(emphasis added). Furthermore, Local Rule
 6 CR 7(b)(4) states that a party's failure to file necessary documents in opposition to a motion for
 7 summary judgment may be deemed by the court to be an admission that the opposition is without
 8 merit.

9 Joint Status Report

10 Counsel and *pro se* parties are directed to confer and provide the court with a joint status
 11 report by no later than **December 19, 2008**. The joint status report shall contain the following
 12 information by corresponding paragraph numbers:

13 1. A short and concise statement of the case, including the remaining legal and factual
 14 issues to be determined at trial;

15 2. A narrative written statement from each party setting forth the facts that will be offered
 16 by oral or written documentary evidence at trial;

17 3. A list of all exhibits to be offered into evidence at trial;

18 4. A list of the names and addresses of all the witnesses each party intends to call along
 19 with a short summary of anticipated testimony of each witness.

20 5. Whether the parties agree to arbitration or mediation under this district's arbitration
 21 program, and if so whether the arbitration will be final and conclusive or the right to trial de novo
 22 will be preserved (see Local Rule CR 39.1(d));

23 6. Whether the case should be bifurcated by trying the liability issues before the damages
 24 issues, or specially managed in any other way;

25 7. Any other suggestions for shortening or simplifying the trial in this case;

26 8. The date the case will be ready for trial, considering Local Rule CR 16 deadlines;

27 9. The dates on which trial counsel are unavailable and any other complications to be
 28 considered in setting a trial date;

1 10. Whether the trial will be by jury or non-jury;

2 11. The number of trial days required, and suggestions for shortening trial;

3 12. The names, addresses, and telephone numbers of all trial counsel and unrepresented
4 (pro se) parties who intend to appear at trial.

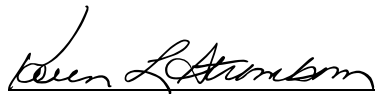
5 If the parties are unable to agree on any part of the report, they may answer in separate
6 paragraphs. **Separate reports are not to be filed.** Plaintiff's counsel (or plaintiff, if *pro se*) will be
7 responsible for initiating communications for the preparation of the joint status report.

8 Proof of Service & Sanctions

9 All motions, pretrial statements and other filings shall be accompanied by proof that such
10 documents have been served upon counsel for the opposing party (or upon any party acting pro se).
11 The proof shall show the day and manner of service and may be by written acknowledgment of
12 service, by certificate of a member of the bar of this court, by affidavit of the person who served the
13 papers, or by any other proof satisfactory to the court. Such proof of service shall accompany both
14 the original and duplicates filed with the Clerk. Failure to comply with the provisions of this Order
15 can result in dismissal/default judgment or other appropriate sanctions.

16 The Clerk of Court is directed to send a copy of this Order to Plaintiff and to counsel for
17 Defendants.

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19 DATED this 17th day of March, 2008.

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23 Karen L. Strombom
24 United States Magistrate Judge
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